

**REMARKS**

Please reconsider this application in view of the above amendments and the following remarks. Applicants thank the Examiner for carefully considering this application.

**Status of Claims**

Claims 1-6, 9, 10, and 37-39 were pending in the application. Claim 2 is cancelled by this reply. Thus, claims 1, 3-6, 9, 10, and 37-39 are pending in this application. Claim 1 is independent. The remaining claims depend, directly or indirectly, from independent claim 1.

**Claim Amendments**

Claims 1, 3, and 4 are amended in this reply. Claim 1 is amended to address the rejection under 35 U.S.C. § 101 and to include limitations of cancelled claim 2. No new matter is added by these amendments as support for the amendments may be found, for example, in Figure 5C and in paragraph [0082] of the published specification. Further, claims 3 and 4 are amended to address claim dependency issues arising from the amendment of claim 1. None of the aforementioned amendments are made to overcome any art cited by the Examiner.

With respect to the amendment made to overcome 35 U.S.C. § 101, the Applicants respectfully request entry of this amendment as entry simplifies issues for appeal. With respect to inclusion of the limitations of cancelled claim 2 into independent claim 1, Applicants respectfully request entry of this amendment because entry does not require a new search (*i.e.*, because claim 1, as amended, now includes the limitations of previously examined dependent claim 2). In view of the above, entry of the above claim amendments is respectfully requested.

**Drawings**

Applicants thank the Examiner for indicating that the objection to the drawings has been withdrawn.

**Rejections under 35 U.S.C. § 101**

Amended independent claim 1 recites, in part, that “at least one adapter peer of the plurality of adapter peers stores data of the particular data type.” Applicants respectfully assert that because amended independent claim 1 recites the storage of data of a particular data type, amended independent claim 1 provides a useful, concrete, and tangible result. Accordingly, amended independent claim 1 is directed towards statutory subject matter. By way of this reply, claim 2 has been cancelled and, thus, the rejection is moot as to cancelled claim 2. With respect to the remaining pending claims, claims 4-6, 9, 10, and 37-39 depend, either directly or indirectly, from independent claim 1 and, thus, are directed towards statutory subject matter for at least the same reason. Accordingly, withdrawal of this rejection is respectfully requested.

**Rejections under 35 U.S.C. § 102**

Claims 1, 5-10, and 39 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 7,007,041 (“Multer”). This rejection is respectfully traversed. Specifically, “[a] claim is anticipated only if *each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131 (emphasis added). Applicants

respectfully submit that Multer does not describe at least the following limitations of amended independent claim 1.

***1. each communication channel of the first plurality of communication channels associated with a particular data type***

As an initial matter, the Examiner has asserted that “a first plurality of communication channels ... for broadcasting the data of defined data types” as recited in amended independent claim 1 necessarily requires that each communication channel be associated with a particular data type. *See* Office Action dated May 23, 2007, pg. 9. However, the cited portion of claim 1 only requires that *all* communication channels are for broadcasting data of *all* defined data types. Thus, amended independent claim 1 includes two distinct limitations: (1) “a first plurality of communication channels ... for broadcasting the data of defined data types” and (2) “each communication channel of the first plurality of communication channels associated with a particular data type”. Applicants respectfully request that “each and every element” of amended independent claim 1 be considered. Further, Applicants assert that Multer fails to disclose these elements for at least the following reasons.

Turning to the rejection, the claims clearly recite that each communication channel is associated with a particular data type. The Examiner has suggested that Multer describes “each communication channel ... associated with a particular data type” at col. 9, lines 30-32. However, Multer is completely silent with respect to communication channels associated with particular *data types*. Specifically, Multer teaches that communication channels are dedicated to particular *device types*, which transmit all data types from a particular device. *See* Multer, Figure 8, Col. 11, lines 10-

25, Figure 3, and Col. 6, lines 53-67. Thus, the cited passage cannot possibly describe “each communication channel ... associated with a *particular data type*” as required by the claims.

Furthermore, in asserting that Multer discloses aforementioned limitation, the Examiner is misapplying the standards outlined by the *Phillips* court. In particular, the *Phillips* court held that “[t]he person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but *in the context of the entire patent, including the specification.*” *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (*en banc*) (emphasis added). Viewed in this light, the *plain meaning* of the term “data type”, within the context of the specification, is a *data structure* for storing a category of information (*e.g.*, HR User, email User, a database table, an object class, etc.). *See, e.g.*, Specification as published, at [0010], [0041], and [0051]. In contrast, Multer defines a device as:

[A] collection of elements or components organized for a common purpose, and may include hardware components of a computer personal information devices, hand-held computers, notebooks, or any combination of hardware which may include a processor and memory which is adapted to receive or provide information to another device; or any software containing such information residing on a single collection of hardware or on different collections of hardware. Multer, col. 5, lines 15-23.

In other words, “device” refers to *hardware* organized for a common purpose. In view of this, it is clear that the *device* type as disclosed in Multer is not equivalent to the *data* type as recited in amended independent claim 1.

2. *a second plurality of communication channels for broadcasting the queries and wherein each channel of the second plurality of communication channels is associated with a particular data type, wherein the first join engine peer also generates queries for data of specific data types*

The claim clearly recites that a join engine peer generates queries for data of specific data types, where the queries are broadcasted on communication channels. The Examiner admits that Multer fails to disclose the use of queries. *See* Office Action dated May 23, 2007, pg. 6.

In view of the above, Multer clearly does not describe each and every element of amended independent claim 1. Therefore, independent claim 1 is patentable over Multer for at least the reasons given above. Further, dependent claims 5-10 and 39 the same patentable subject matter as amended independent claim 1 and, thus, are patentable over Multer for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

#### **Rejections under 35 U.S.C. § 103**

To establish a *prima facie* case of obviousness, “[f]irst, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest *all the claim limitations*.” MPEP § 2143 (emphasis added). Further, “*all words in a claim must be considered in judging the patentability of that claim against the prior art*.” MPEP § 2143.03 (emphasis added).

#### Claims 2-3

Claims 2-3 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Multer in view of U.S. Patent No. 7,117,264 ("Becker"). By way of this reply, claim 2 has been cancelled and thus the rejection is moot as with respect to cancelled claim 2. To the extent that this rejection applies to claim 3, this rejection is respectfully traversed.

Claim 3 depends from independent claim 1. As discussed above, Multer does not describe each and every element of independent claim 1. Further, Becker does not teach that which Multer lacks.

Specifically, Becker teaches a system for peer-to-peer communication including functionality to broadcast queries. *See* Becker, column 10, lines 12-15. Specifically, Becker only teaches a network that allows for standard peer-to-peer communications between the nodes. *See* Becker, column 7, lines 46-64. However, Becker is completely silent with respect to the network having communication channels, where each communication channel is associated with a particular data type. Thus, Becker does not teach or suggest a system having communication channels, where each communication channel is associated with a particular data type, as recited in amended independent claim 1.

Moreover, Becker fails to teach or suggest a join engine peer for generating queries of *specific data types*. Specifically, Becker recites that queries may be generated by users or target devices. *See* Becker, column 18, lines 31-34. Further, the target device (or user) may generate queries of *any* data type. *See* Becker, column 9, lines 34-51. However, Becker is completely silent with respect to the target device generating queries of *specific data types*. Thus, Becker does not teach or suggest a system having a join engine peer for generating queries of specific data types as recited in amended independent claim 1.

In view of the above, Multer and Becker, whether viewed separately or in combination, fail to show or suggest the present invention as recited in amended independent claim 1. Thus, amended independent claim 1 is patentable over Multer and Becker. Claim 3 depends, directly or indirectly, from claim 1, and is therefore patentable over Multer and Becker for at least the same reasons.

#### Claim 4

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Multer in view of Becker and in further view of Applicant Admitted Prior Art ("AAPA"). This rejection is respectfully traversed.

At the outset, the Applicants object to the Examiner's assertion that the limitations of claim 4 are AAPA. Specifically, the Examiner, pursuant to M.P.E.P. § 2144.03 C, the Examiner has taken the position that the Applicants have failed to traverse the Examiner's assertion of Official Notice. Applicants disagree with the Examiner's conclusion. Specifically, the Examiner has failed to satisfy the requirements outlined in M.P.E.P. § 2144.03. This section of the M.P.E.P. requires that the Examiner only take Official Notice without documentary evidence "where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute" (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961))."

In contrast to above requirement, the Examiner has merely made an unsupported statement that the limitations in dependent claim 4 would have been obvious to one skilled in the art. *See* Office Action mailed November 2, 2006, page 7. It is not clear how the limitations in amended independent claim 4 are capable of instant and unquestionable demonstration as being well-known. In view of the above, Applicants request withdrawal of the "AAPA" designation as applied to the limitations of dependent claim 4. Further, Applicants request that the Examiner respond to the Applicants' traversal of the Official Notice pursuant to M.P.E.P § 2144.03 C.

Moreover, even assuming *arguendo* that the limitation is well known in the field of the invention, as discussed above, Multer and Becker, whether viewed separately or in combination, fail to teach or suggest the present invention as recited in amended independent claim 1. Further, AAPA does not provide what Multer and Becker lack as the AAPA only recites generating a query in response to receiving data changes. *See* Office Action mailed May 23, 2007, at page 7.

In view of the above, neither Multer, Becker, nor AAPA, whether considered separately or in combination, teach or suggest all the limitations of amended independent claim 1. Thus, amended independent claim 1 is patentable over Multer, Becker, and AAPA. Claim 4 depends from claim 1 and, thus, is patentable for at least the same reasons as claim 1. Accordingly, withdrawal of this rejection is respectfully requested.

#### Claims 37 and 38

Claims 37 and 38 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Multer in view of AAPA. This rejection is respectfully traversed.



At the outset, the Applicants object to the Examiner's assertion that the limitations of claims 37 and 38 are AAPA. Specifically, the Examiner, pursuant to M.P.E.P. § 2144.03 C, the Examiner has taken the position that the Applicants have failed to traverse the Examiner's assertion of Official Notice. Applicants disagree with the Examiner's conclusion. Specifically, the Examiner has failed to satisfy the requirements outlined in M.P.E.P. § 2144.03. This section of the M.P.E.P. requires that the Examiner only take Official Notice without documentary evidence "where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute" (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961))."

In contrast to above requirement, the Examiner has merely made an unsupported statement that the limitations in dependent claim 37 and 38 would have been obvious to one skilled in the art. See Office Action mailed November 2, 2006, page 7. It is not clear how the limitations in amended independent claim 4 are capable of instant and unquestionable demonstration as being well-known. Applicants request withdrawal of the "AAPA" designation as applied to the limitations in dependent claim 4. Further, Applicants request that the Examiner respond to the Applicants' traversal of the Official Notice pursuant to M.P.E.P. § 2144.03 C.

Moreover, even assuming *arguendo* that the limitation is well known in the field of the invention, as discussed above, Multer fails to teach or suggest the present invention as recited in amended independent claim 1. Further, AAPA does not provide what Multer lacks as the AAPA

only recites that join engine peers may be partitioned and then associated with specific join specifications. *See* Office Action mailed May 23, 2007, at page 7.

In view of the above, neither Multer nor AAPA, whether considered separately or in combination, teach or suggest all the limitations of amended independent claim 1. Thus, amended independent claim 1 is patentable over Multer and AAPA. Claims 37 and 38 depend from claim 1 and, thus, are patentable for at least the same reasons as claim 1. Accordingly, withdrawal of this rejection is respectfully requested.

### **Conclusion**

Applicants believe this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 03226/515001; SUN030015).

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